(2004) 07 MP CK 0043

In the Madhya Pradesh High Court

Case No : IT Ref. No. 6 of 1999

Commissioner of Income Tax — APPELLANT

Vs

P.M. Steels (P) Ltd. — RESPONDENT

Date of Decision : 19-07-2004

Acts Referred:
Constitution of India, 1950 — Article 141
Income Tax Act, 1961 — Section 256(2)

Citation : (2004) 191 CTR 45 : (2004) 141 TAXMAN 311

Hon'ble Judges : Ashok Kumar Tiwari, J;A.M. Sapre, J

Bench : Division Bench

Advocate : R.L. Jain, for the Appellant; H.C. Sarda, for the Respondent

Final Decision : Dismissed

Judgement

1. This is an application made u/s 265(2) of IT Act by the Revenue (IT Department) requesting this Court to direct the Tribunal to make a reference on the question proposed. It arises out of an order passed by the Tribunal on 30th June, 1998, passed in RA No. 63/Ind/1998 which, in turn, arises out of an order passed by the Tribunal, dt. 16th Feb., 1998 in appeal bearing ITA No. 258/Ind/1994 pertaining to the asst. yr. 1989-90.

2. Since the Tribunal declined to make a reference to this Court u/s 256(1) of the Act and hence, need arose to seek direction from this Court to the Tribunal for making the reference on the question so proposed which according to the petitioner arises out of the order passed by the Tribunal in the appeal decided against the petitioner.

3. It was not disputed by the parties that the issue sought to be canvassed in this matter has since been answered in the decision of the Supreme Court reported as M/s. Surana Steels Pvt. Ltd. Vs. The Deputy Commissioner of Income Tax and Ors, . It is in this case, their Lordships of the Supreme Court examined the question and answered the same in favour of the assessee.

4. When the issue is settled by the decision of the Supreme Court, no more debate is necessary. It cannot then be said that the controversy is alive for being decided by the High Court. The law laid down by the Supreme Court is binding on all Courts in the country by virtue of the mandate contained in Article 141 of the Constitution of India. We, therefore, are of the view that this application has no merit and deserves to be dismissed. Needless to observe, the law laid down by the Supreme Court in the case of Surana Steel (supra) shall be taken note of, by the taxing authorities while working out the tax liability arising in the cases of the assessee in concerned assessment years.

5. Accordingly and in view of aforesaid discussion, application made by the Revenue u/s 256(2) of the IT Act is dismissed holding that question proposed do not arise out of the controversy as the same having been settled by the decision of the Supreme Court in Surana Steel (supra). No costs.